



WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**

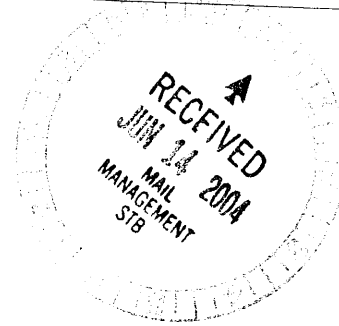
AB-6-422X  
EI-875

C6-

DOUG SUTHERLAND  
Commissioner of Public Lands

June 8, 2004

Michael Smith  
311 S. Wacker Dr., Suite 3000  
Chicago, Illinois 60606-6677



RE: Surface Transportation Board Docket No. AB-6 (Sub-No. 422X); The Burlington Northern and Santa Fe Railroad Company Abandonment in Snohomish, Washington

Dear Mr. Smith:

After reviewing the document you recently sent to Cathy Ray of this department I was surprised to see that it did not include my letter to Brain Nettles, dated April 3, 2003. I am attaching that letter to this package and I am confident that you will make it part of your package addressing the environmental or historical effects.

My agency, the Washington State Department of Natural Resources, acts as the land representative for the State of Washington, who happens to be the underlying landowner of the segment of bridge that crosses the Snohomish River within the proposed abandonment.

It is my Department's position that the Railroad Company should be required to remove the bridge before this abandonment should be granted. Allowing the railroad to abandon the bridge and walk away from their obligations to maintain this bridge will only result in the bridge someday falling in the river, which will cause flooding and fish passage problems.

I am hopeful that my agency's concerns will be addressed in this abandonment process.

Sincerely,

Chad Unland, Land Manager  
NW Region, Aquatic Lands

cc: Surface Transportation Board, Attention Rini Ghosh, 1925 K. Street, NW., Room 504, Washington D.C., 20423-0001



WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**

DOUG SUTHERLAND  
*Commissioner of Public Lands*

April 3, 2002

Brian Nettles, Freeborn and Peters  
311 South Whacker Drive  
Suite 3000  
Chicago, Illinois 60606-6677

RE: The Burlington Northern and Santa Fe Company (BNSF) Abandonment of the  
Snohomish, Washington Trackage

Dear Mr. Nettles:

Your letter sent to this department on March 1, 2002, to the Forest Practices Division, in Olympia Washington, has ended up on my desk. You and I have spoken and corresponded about this issue in the past.

In regard to specific inquiry raised in paragraph two of your letter, it does not appear that the department has any upland concerns regarding state parks or forest lands that may be affected as a result of the railroad abandonment in the segment of trackage from milepost 37.62 to milepost 39.00.

As we discussed before, the department does have an interest in the segment of trackage (railroad bridge) that crosses state-owned aquatic land (SOAL). One of our concerns was the need to pursue proper authorization. In your previous correspondence, dated December 10, 2001, you mentioned that BNSF was not sure how the bridge was authorized! Do we have a definitive answer to this question? Our records due not indicate any authorization for this encumbrance.

If the railroad bridge is to be removed with the proposed abandonment this may become a none issue, however, if BNSF intends to convey its interest in the railroad bridge (over SOAL) to another entity, such as the City of Snohomish (to be used as a walking trail), then it should be clarified as to what interest is being conveyed. Without evidence of proper authorization, BNSF would be conveying an unauthorized encumbrance on a piece of property not owned in fee or occupied by easement.

In order for BNSF to convey its interest in the railroad bridge (over SOAL) to Snohomish it should be a three party agreement between BNSF, Snohomish and DNR. Typically, with an authorization instrument, such as an easement, an assignment in interest can be pursued through DNR.

Brian Nettles, Freeborn and Peters  
April 3, 2002  
Page 2

If BNSF would like to expedite this process, I would propose that the department could authorize the bridge (over SOAL) by means of an easement and then have their interest in the easement assigned to Snohomish. I am enclosing an application within this package to facilitate that option. One of the issues that would need to be addressed by selecting this option would be the requirement for Exhibit A (a property survey) described in the application package.

The department would support a transfer of the bridge to Snohomish to be used as public use (which is one of our management goals, to encourage direct public use and access to SOAL) but would also want to use this as an opportunity to authorize this alleged "unauthorized use," unless BNSF can provide evidence of proper authorization from 1912. If BNSF were to simply quit claim deed it's interest in the railroad bridge (over SOAL) to Snohomish it would then become the City's obligation to pursue proper authorization with the landowner (the State of Washington) for this encumbrance.

As you are aware, maintenance and liability responsibilities related to this structure can be costly and our department has stewardship obligations to ensure that these issues are adequately addressed for all encumbrances on SOAL.

Please call me at 360-854-2835 if you have questions or comments.

Sincerely,



Chad Unland, Land Manager  
NW Region, Aquatics

cc: Region File

Ann Caley, City Planner, 116<sup>th</sup> Union Street, Snohomish, WA 98290 (w/ specs for Exhibit A)